



08 JAN 2010

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WASHINGTON DC 20037

In re Application of:	:	
MARTINEZ NAVARRO, Gabriel	:	
U.S. Application No.: 10/583,254	:	COMMUNICATION
PCT No.: PCT/ES2003/000647	:	
International Filing Date: 18 December 2003	:	
Priority Date: None	:	
Atty Docket No.: F-9836	:	
For: EGG-PRODUCT-PREPARATION	:	
ASSEMBLY	:	

This communication is issued in response to the "Response To Notification Of Defective Response" filed 30 July 2009. No petition fee is required.

### **BACKGROUND**

On 18 December 2003, applicant filed international application PCT/ES2003/000647. The international application did not claim an earlier priority date, and it designated the United States. On 07 July 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the international filing date, i.e., 18 June 2006. The published international application named a single applicant/inventor: Gabriel MARTINEZ NAVARRO.

On 16 June 2006, applicant filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an English translation of the international application.

On 02 September 2008, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date were required.

On 27 October 2008, applicant filed a response to the Notification Of Missing Requirements that included payment of the required surcharge and an executed declaration. The declaration identified the sole inventor as Gabriel MARTINEZ NAVARRO.

On 21 July 2009, the DO/EO/US mailed a "Notification Of Defective Response" (Form PCT/DO/EO/916) indicating that an acceptable oath or declaration was still required. The

Notification indicated that the declaration filed 27 October 2008 was defective because the inventor's name listed on the declaration (NAVARRO) did not correspond to the name of record for this inventor (NAVARROP).

On 30 July 2009, applicant filed the "Response To Notification Of Defective Response" considered herein. The submission requests acceptance of the previously filed declaration, stating that the inventor's correct name is NAVARRO, as listed on the declaration.

### DISCUSSION

Section 1893.01(e) of the Manual Of Patent Examining Procedure ("MPEP") states the following (emphasis added):

Where ... the name of an inventor indicated in the international application during the international phase has changed such that the inventor's name is different from the corresponding name indicated in an oath or declaration submitted under 37 CFR 1.497, for example, on account of marriage, then a petition under 37 CFR 1.182 will be required to accept the oath or declaration with the changed name. See MPEP § 605.04(c). However, **where the discrepancy between the name of the inventor indicated in the international application during the international phase and the name of the inventor as it appears in the oath or declaration submitted under 37 CFR 1.497 is the result of a typographical or transliteration error, then a petition under 37 CFR 1.182 will not be required. In such case, the Office should simply be notified of the error.** Similarly, a typographical or transliteration error in the name of an inventor identified in a previously submitted oath or declaration may be corrected by simply notifying the Office of the error. A new oath or declaration is not required to correct such error.

Here, the declaration filed by applicants on 27 October 2008 contained a one-letter discrepancy in the spelling of the inventor's name (NAVARRO instead of NAVARROP). Applicant's response to the Notification Of Missing Requirements filed 30 July 2009 confirms that the correct spelling of the inventor's name is that set forth in the declaration (i.e., NAVARRO). The statements in applicant's 30 July 2009 submission are construed herein as an indication that the incorrect spelling of the inventor's name as "NAVARROP" on the international application was the result of a typographical error in the international application.<sup>1</sup> As set forth in the MPEP, under such circumstances, a petition under 37 CFR 1.182 is not required. Thus, the declaration filed 27 October 2008 may be accepted in compliance with 37 CFR 1.497.

### CONCLUSION

The declaration filed by applicant on 27 October 2008 may be accepted in compliance with 37 CFR 1.497.

The correct name of record for the sole the inventor of record is accepted as Gabriel MARTINEZ NAVARRO, as set forth in the declaration filed 27 October 2008.

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<sup>1</sup> Applicants must notify this Office if this is not a proper interpretation of applicant's submission.

The application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 October 2008.

A handwritten signature in black ink, appearing to read 'RM Ross', written in a cursive style.

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